

**66 FLRA No. 39**

AMERICAN FEDERATION  
OF GOVERNMENT EMPLOYEES  
COUNCIL 236  
(Union)

and

UNITED STATES  
GENERAL SERVICES ADMINISTRATION  
REGION 2  
NEW YORK, NEW YORK  
(Agency)

0-AR-4771

---

DECISION

September 29, 2011

---

Before the Authority: Carol Waller Pope, Chairman, and  
Thomas M. Beck and Ernest DuBester, Members

This matter is before the Authority on exceptions to an award of Arbitrator Randall M. Kelly filed by the Union under § 7122(a) of the Federal Service Labor-Management Relations Statute (the Statute) and part 2425 of the Authority's Regulations. The Agency filed an opposition to the Union's exceptions.

Under § 7122(a) of the Statute, an award is deficient if it is contrary to any law, rule, or regulation, or it is deficient on other grounds similar to those applied by federal courts in private sector labor-management relations. Upon careful consideration of the entire record in this case and Authority precedent, the Authority concludes that the award is not deficient on the grounds raised in the exception and set forth in § 7122(a). *See Fraternal Order of Police, Pentagon Police Labor Comm.*, 65 FLRA 781, 784-85 (2011) (denying a contrary-to-law exception where excepting party did not cite any law with which the arbitrator's award conflicted); *U.S. Dep't of Veterans Affairs, Med. Ctr., N. Chi., Ill.*, 52 FLRA 387, 398 (1996) (award not deficient because of bias on the part of an arbitrator where excepting party fails to demonstrate that the award was procured by improper means, that there was partiality or corruption on the part of the arbitrator, or that the arbitrator engaged in misconduct that prejudiced the rights of the party); *AFGE, Local 1668*, 50 FLRA 124, 126 (1995) (award not deficient on ground that arbitrator failed to provide a fair hearing where excepting party fails to demonstrate that the arbitrator refused to

hear or consider pertinent and material evidence, or that other actions in conducting the proceeding so prejudiced a party so as to affect the fairness of the proceeding as a whole); *U.S. Dep't of the Air Force, Lowry Air Force Base, Denver, Colo.*, 48 FLRA 589, 593-94 (1993) (award not deficient as based on a nonfact where excepting party either challenges a factual matter that the parties disputed at arbitration or fails to demonstrate that the central fact underlying the award is clearly erroneous, but for which a different result would have been reached by the arbitrator).

Accordingly, the Union's exceptions are denied.